

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Technical Requirements to Enable)
Blocking of Video Programs Based on)
Program Ratings)

Implementation of Sections 551(c), (d) and)
(e) of the Telecommunications Act of 1996)

ET Docket No. 97-206

TO: The Commission

**Joint Comments of the
National Association of Broadcasters, the
National Cable Television Association, and
the Motion Picture Association of America**

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Summary

This proceeding is intended to establish the technical standards for television receivers to operate the system of TV Parental Guidelines that was adopted by video programmers and distributors and submitted to the Commission earlier this year. The rules the Commission adopts should, as the Commission proposes, be grounded on the standard for transmission of ratings data adopted by EIA. That standard, however, may not address all of the issues that are needed to ensure consistent and effective operation of the V-chip.

Although the interface with the V-chip and other set design issues should be left to individual manufacturers, the FCC should ensure that the V-chip operates in a uniform manner in all television sets. Programs that are not rated should not be blockable using the V-chip. The TV Parental Guidelines include exemptions for news and sports programs, and there was no contemplation that those programs would be subject to blocking. The EIA standard provides that the V-chip will block programs only if a ratings packet is received.

Selection of blocking options for the two children's program ratings categories and the four general audience categories should be separate since parents may differ on what they want younger children to watch. The Commission should ensure that parents can use either age or content ratings — or a combination of both — to block categories of programs.

The Commission should not mandate that the V-chip include other ratings systems. As the agreement between the television industries and children's advocacy groups that adopted the revised TV Parental Guidelines contemplated, the V-chip should include only the TV Parental Guidelines and the existing MPAA motion picture ratings.

The FCC proposes, as the Telecommunications Act contemplated, to require video distributors to transmit ratings information on line 21 of the vertical blanking interval for programs that are rated. The proposed rule should be modified, however, to permit television stations to alter the rating assigned to a program better to reflect the tastes and values of their local audiences.

Finally, the Commission appropriately proposes to delay adopting specific regulations for implementing ratings technology in digital television receivers. The standards for the digital program information packet are under development, and the FCC should not impose specific requirements until it has some experience with the V-chip in an analog environment

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the Motion Picture Association of America**

The National Association of Broadcasters, the National Cable Television Association, and the Motion Picture Association of America (hereinafter "Joint Commenters") hereby submit comments on the Commission's *Notice of Proposed Rulemaking* in this proceeding.

Section 303(x) of the Communications Act directs the Commission to require that television sets with a picture screen 13 inches or greater be equipped with a V-chip that enables viewers to block display of all programs with a common rating. As the Commission recognizes (*Notice* ¶ 5), a common rating system (the "TV Parental Guidelines") that combines age and content information has been developed pursuant to an agreement between children's advocacy groups and Joint Commenters. Once the Commission determines that the system of TV Parental

Guidelines that we have developed is "acceptable," that system will be incorporated into blocking technology in new television receivers pursuant to rules adopted in this proceeding.

In addition, the Commission is empowered under Section 330(c)(3) to oversee the adoption of industry standards for blocking technology. The Commission is also assigned the task of ensuring that all television receivers should be able to receive the ratings signals transmitted in line 21 of the vertical blanking interval (VBI) and which conform to the signal and blocking specifications established by the industry under FCC supervision.

These comments will discuss what the industries that developed the TV Parental Guidelines believe is appropriate and reasonable for the design of transmission standards and the operation of the V-chip.

Television Receiver Compatibility

The Commission (*Notice* ¶¶ 8-9) notes that the Electronic Industries Association (EIA) has adopted a standard for data transmission on line 21 of the VBI, and that an EIA committee has adopted a modification of that standard to incorporate the TV Parental Guidelines. EIA Standard 744, *Transport of Content Advisory Information Using Extended Data Service (XDS)* (October 1997). The *Notice* proposes that the Commission should rely on the EIA standard to establish the requirements for ratings-compatible television sets. Joint Commenters agree that the revised EIA 608, which establishes a protocol for transmitting the TV Parental Guidelines, should be the basis for the rules the Commission adopts. There are, however, significant other issues affecting the V-chip that are not addressed in EIA 608 as amended, and that standard may not be adequate to ensure full achievement of Congress' goals in mandating the inclusion of V-

chips in almost all television receivers. The revised EIA standard for the most part deals with the structure of the data packet that will include ratings information, and not with either control of the V-chip by consumers or the way in which television sets will respond to blocking instructions.

If the TV Parental Guidelines are to be effective in providing parents with a useful means of controlling their children's television viewing, not only must there be a generally understandable ratings system, television sets must also react to ratings encoded in the VBI in a consistent manner.¹ If parents choose to block certain age or content program categories, all television sets should block the same set of programs. A system that operated differently on sets made by different companies, or even on different models made by one company, would only lead to parental confusion. Since in 1996 the average television household had 2.36 television receivers,² the likelihood that parents will be operating sets from different manufacturers is high. If parents cannot be sure without consulting a manual what the impact of a particular blocking choice will be, they will be far less likely to use the V-chip and the TV Parental Guidelines. Furthermore, television programmers and distributors who have adopted the system of TV

¹ For example, the same EIA committee that adopted the revised transmission standard also adopted a Statement of Recommended Practices. EIA Engineering Bulletin CEB1, *Recommended Practice for the Content Advisory Extended Data Service (XDS) Packet* (Oct. 1997). That statement addresses the actual blocking operation in a television receiver and calls for suppression of the audio, video, and captions of programs that are blocked through the V-chip, as well as providing for a message informing viewers that a particular program has been blocked because of its rating, and other recommendations for receiver functioning with the V-chip. EIA statements of recommended practices, however, are not binding on manufacturers, and they may choose to make receivers that function differently than called for in the EIA statement.

² Nielsen Media Research, *Television Audience 1996* (1997) at 5.

Parental Guidelines and will encode ratings into programs should have a common understanding of the way in which program blocking will operate.

Joint Commenters emphasize, however, that while the Commission should establish the way in which the V-chip should operate on all televisions, it should not seek broadly to regulate television set design and manufacture. Although the V-chip should operate in a consistent fashion, such things as the design of the screens which will be presented to parents, the choice of buttons on the remote control that will be used to operate the V-chip, the way in which sets will allow parents to change their blocking settings without permitting children to defeat blocking, and other human interface issues are choices that manufacturers should be permitted to make on their own.

To analogize to VCRs, every VCR on the market permits users to set the machine in advance to record programs at certain times on certain channels. The ways in which VCRs are set to do this vary widely from brand to brand and over time. Just so, manufacturers may differentiate among brands by differing ways of operating the V-chip, but once certain settings are put in place, the *effect* of those settings on the operation of the set should be uniform.³

³ In comments on the revised TV Parental Guidelines, the Consumer Electronics Manufacturers Association argued that any regulation of the viewer interface with the V-chip would exceed the Commission's authority under the Telecommunications Act. Comments of the Consumer Electronics Manufacturers Association, CS Dkt. No. 97-55 (filed Oct. 6, 1997) at 2. Neither the language of the Telecommunications Act, nor its legislative history, limits the Commission's authority to require technical features on television receivers sufficient to make them work with the industry-adopted ratings system. Joint Commenters do not suggest that the Commission should view its mandate under the Telecommunications Act as authority for sweeping regulation of television receiver design. At the same time, however, the Commission has the authority it needs to ensure that the TV Parental Guidelines provide a useful tool to parents as Congress

Operation of the V-chip

Joint Commenters believe that there are several basic principles stemming from the TV Parental Guidelines that the Commission should incorporate into the rules requiring inclusion of blocking technology in television sets. First, there should be no capability in television sets to use the V-chip to block unrated television programs. As the Commission is aware, the TV Parental Guidelines are not applicable to news and sports programs. This reflects, among other things, the unique status and public benefit of news and informational programming. The industries which established the TV Parental Guidelines believed that those programs should not be rated or subject to blocking because of their content.

The amendment to EIA 608 to incorporate the TV Parental Guidelines is consistent with this intent. It allows programmers to include a code on line 21 described as “none” which indicates that no rating is attached to the program being transmitted. The amendment specifies that “[n]o blocking is intended per the program rating criteria.” EIA’s statement of recommended practices also provides that unrated programs will not be blocked. In addition to implementing the provision for a “none” rating described above, the EIA statement provides that channel blocking will cease “if no Program Rating packet is received for 5 seconds.” It also states that “[i]f no packet is received, then the channel is never blocked.” EIA Engineering Bulletin CEB1, *Recommended Practice for the Content Advisory Extended Data Service (XDS) Packet* (October 1997) at 1. Therefore, the Commission’s rules should provide that the V-chip

³ (...continued)
expected.

will only block programs that carry a rating, but will not block programs without age or content ratings.⁴

Second, the TV Parental Guidelines include two ratings categories for programs designed solely for children and four categories for programs intended for a general audience that may include both children and adults. In the operation of the V-chip, the two children's categories should be treated as wholly separate from the general audience categories. Parents may differ on how the decisions they make about certain children's programs should affect the viewing of general audience programs. For example, some parents might choose to block TV-Y7 programs for their younger children, but might be perfectly comfortable with those children watching TV-G programs. Others may take a different view. Thus, the choices parents make about blocking general audience programs should not result in automatic blocking of children's programs — and *vice versa*. Making those decisions independently will not impose any significant burden on parents and will allow each family to make the choice most appropriate for their own children. Parental decisions in the children's categories and the general audience categories should therefore be taken separately.

Third, the children's advocacy groups believed that the industry's original ratings system did not provide parents with sufficient detailed content information about television programs or allow parents to block programs based on their specific content. The children's advocacy groups

⁴ Some television receivers, as well as some cable set-top boxes and DBS receivers, now provide parents with the option of blocking particular channels during specified times, or other blocking technologies that are not based on ratings. Joint Commenters do not suggest that the operation of those systems be limited in any way by the Commission, only that the V-chip itself not be usable to block programs without ratings.

believed, and we concurred, that parents should have the capability of making their own personal selections of programs they want to block from their children's viewing by being able to pick and choose among four content categories — D, L, S, and V. In developing the revised TV Parental Guidelines, the television industries and the advocacy groups developed the present system that permits parents to use either age or content based ratings to determine which programs their children will watch.

In keeping with the advocacy groups' support of the addition of content symbols to the TV Parental Guidelines, the Commission should ensure that the V-chip allow parents to make detailed selections of programs to be blocked by selecting categories for blocking.

Furthermore, the agreement between the children's advocacy groups and the Joint Commenters concerning the revised TV Parental Guidelines — which was submitted to the Commission as an attachment to our August 1, 1997 submission of the revised Guidelines — also called for television distributors to increase the size of the ratings icon displayed at the beginning of rated programs. It further provided that parents would be able to display program ratings during the course of a program through use of a display button. Joint Commenters believe that requiring television receivers to include a means of displaying ratings information on request would add to the usefulness of the TV Parental Guidelines, and urge the Commission to require such a feature in V-chip equipped televisions. Because of the limitations in the character generators in many television sets, Joint Commenters do not believe that the Commission should require on-call display of the exact icons used by program distributors. Instead, the objective of this provision would be satisfied if the letters and numbers denoting the rating were displayable on request.

The Commission Should Not Mandate Additional Ratings Systems

In the *Notice* (§ 12), the Commission proposes to require that the V-chip be designed to accommodate additional ratings systems that may be developed in the future. The July 10, 1997 agreement between Joint Commenters and children's advocacy groups, however, specifically provides that no other television rating system will be mandated for inclusion in the V-chip.⁵

In fact, the amendment to EIA 608 contemplates that the V-chip will recognize only two American ratings systems — the TV Parental Guidelines and the existing MPAA motion picture ratings that will be transmitted with movies offered on premium cable services. A particular program could, under the EIA standard, include ratings under only one of these systems.⁶

At this point, there is no other system that the Commission proposes to be included in the V-chip. Thus, any ratings categories added to the V-chip could be no more than empty spaces. If a future ratings system were to be developed, parents could not use the new system without consulting an external guide to its operation and it is far less likely that such a system would be

⁵ It appears that the Commission may in one respect have misinterpreted Joint Commenters' August 1, 1997 letter submitting the revised TV Parental Guidelines. Footnote 23 of the *Notice* seems to indicate an understanding that the additional content advisories that are used by HBO and Showtime would be transmitted as part of ratings information on line 21 of the VBI. This is incorrect. Those additional advisories will continue to be carried on-screen before particular programs as they are now. Joint Commenters apologize for any inadvertent misunderstanding their letter may have caused.

⁶ The amendment to EIA 608 also would permit manufacturers to make one type of television receiver for all North American markets by recognizing in the chip one non-U.S. NTSC ratings system. Because the chip will only work with one system for each program, the ability of the chip to implement blocking commands in Canada or other North American countries that may adopt ratings systems will have no impact on American consumers or television distributors.

widely used instead of a system that is entirely self-explanatory. Also, since the ratings packet adopted by EIA does not include sufficient bits to permit the addition of other ratings systems, an FCC requirement that additional systems be included would require redesign of the ratings transmission protocol, further delaying the availability of V-chip equipped televisions.

The Commission asks how many ratings systems are likely to be developed that would be transmitted on line 21 of the VBI. The television industries, working with children's advocacy groups, have collectively adopted the TV Parental Guidelines. Assuming that the Commission determines that the TV Parental Guidelines are acceptable, that will be the system that program producers, cable systems, and broadcast television stations will generally use. Although refinements to that system may be adopted in light of experience, there is no reason to believe that the television industries will develop additional or replacement systems in the analog television environment that would orphan the millions of households that have television sets including V-chips designed for use with the existing system. No public interest would be served by doing so.

Indeed, the Commission has no authority to require the adoption of other ratings systems or their inclusion in the V-chip. Section 551 of the Telecommunications Act allows the Commission to adopt its own ratings system only if an acceptable system is not developed by video programming distributors. Although section 551(d)(4) directs the Commission to accommodate new blocking technologies that may be developed in lieu of the V-chip, the Act does not contemplate that the Commission will have any further role to play in adopting a ratings system for the V-chip once an acceptable system is developed.

Requiring the inclusion of additional ratings systems in the V-chip will only result in delays in making V-chips available, increase consumer costs, and create the potential for consumer confusion. The Commission should avoid these problems and require V-chips to accommodate only the TV Parental Guidelines and the existing MPAA ratings system, as contemplated by the agreement between the television industries and the children's advocacy groups..

The Commission Should Allow Stations to Change Program Ratings to Ones Suitable for Local Audiences

The Commission proposes (*Notice* ¶ 21) to bar cable television systems and television broadcast stations from deleting or modifying program ratings information carried on line 21 of the VBI. In the Act, Congress directed the Commission to require program distributors to transmit ratings for any program that has been rated. 47 U.S.C. § 303(w)(2). Although the Commission may therefore require the transmission of ratings information, assuming that a program has been assigned a rating, it should not bar television stations from modifying the rating assigned to a particular program.

In our January 17, 1997 submission of the TV Parental Guidelines to the Commission, Joint Commenters pointed out that, although ratings would be typically assigned to programs by broadcast and cable networks and producers, “[t]he final say in assigning program guidelines rests with local television stations who will have the right to substitute the rating they deem most suitable for the particular audience.”⁷ It is appropriate that television stations which have a close

⁷ Letter from Jack Valenti, Decker Anstrom, and Eddie Fritts to William F. Caton, Jan. 17, 1997, at 3.

knowledge of and connection with their local audience be permitted to modify a rating assigned by a network or producer to reflect local tastes and values. Although we do not expect this authority to be exercised regularly, it is an important way in which the program ratings which will trigger the V-chip can be adjusted to meet the expectations of parents in a given community.

Joint Commenters, therefore, urge the Commission to amend its proposal to allow television stations to adjust the rating assigned to particular programs.

Digital Television

Finally, the Commission proposes to delay adopting regulations concerning the display of ratings information in digital television receivers. *Notice* ¶ 19. As the Commission recognizes, the Grand Alliance digital television system may permit the transmission of far more program information than is possible with an NTSC signal. The standards for the program information packet in the digital signal are still under development. It would be useful to have some experience with the operation of the TV Parental Guidelines in connection with the V-chip before reaching any conclusion about possible changes to the Guidelines in the digital environment. Joint Commenters, therefore, support the Commission's proposal to put off consideration of ratings technology in digital television receivers.

Conclusion

Together with the Commission's consideration of the TV Parental Guidelines, this proceeding will bring to fruition Congress' effort to allow parents an effective tool with which to control the programs their children watch. The Commission should adopt requirements for television receivers that will ensure they work smoothly and consistently with the industry-

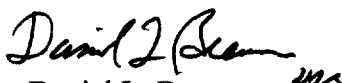
adopted ratings system. In doing so, the Commission should regulate only those aspects of television receivers that are needed to ensure consistent operation with the TV Parental Guidelines. It should also avoid imposing on consumers additional expense and possible confusion by mandating the inclusion in the V-chip of speculative additional ratings systems.

Respectfully submitted,



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